

SENATE BILL NO. 382

INTRODUCED BY L. GROSFIELD, ESP

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT A HEARING ON AN INVOLUNTARY MENTAL COMMITMENT PETITION MAY BE HELD ON THE SAME DAY AS AN INITIAL APPEARANCE BEFORE THE COURT UNLESS THE COURT ORDERS OTHERWISE ON UPON GOOD CAUSE SHOWN; AND AMENDING SECTION 53-21-122, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 53-21-122, MCA, is amended to read:

"53-21-122. Petition for commitment -- filing of -- initial hearing on. (1) The petition for commitment must be filed with the clerk of court who shall immediately notify the judge.

(2) If a judge is available, the judge shall consider the petition, and if the judge finds no probable cause, it must be dismissed. If the judge finds probable cause, counsel must be immediately appointed for the respondent, and the respondent must be brought before the court with the respondent's counsel. The respondent must be advised of the respondent's constitutional rights, the respondent's rights under this part, and the substantive effect of the petition. The respondent may at this appearance object to the finding of probable cause for filing the petition. The judge shall appoint a professional person and a friend of respondent and set a date and time for the hearing on the petition ~~that may not be on the same day as the initial appearance and that may not exceed~~. THE HEARING ON THE PETITION MUST BE HELD WITHIN 5 days, including weekends and holidays, unless the fifth day falls upon a weekend or holiday and unless additional time is requested on behalf of the respondent. The hearing on the petition may, UPON GOOD CAUSE SHOWN, be on the same day as the initial appearance unless, upon good cause shown, the judge orders the hearing to be set on a subsequent day. The desires of the respondent must be taken into consideration in the appointment of the friend of respondent and in the confirmation of the appointment of the attorney.

(3) If a judge is not available in the county, the clerk shall notify a resident judge by telephone and shall read the petition to the judge. If the judge finds no probable cause, the petition must be dismissed. If the judge finds probable cause, the judge shall cause the clerk to issue an order appointing counsel and a professional person and setting a date and time for the hearing on the petition ~~that may not be on the~~

1 ~~same day as the initial appearance and that may not exceed.~~ THE HEARING ON THE PETITION MUST BE HELD
2 WITHIN 5 days, including weekends and holidays, unless the fifth day falls upon a weekend or holiday and
3 unless additional time is requested on behalf of the respondent. The hearing on the petition may, UPON
4 GOOD CAUSE SHOWN, be on the same day as the initial appearance ~~unless, upon good cause shown, the~~
5 ~~judge orders the hearing to be set on a subsequent day.~~ The order must also direct that the respondent
6 be brought before a justice of the peace with the respondent's counsel to be advised of the respondent's
7 constitutional rights, the respondent's rights under this part, and the contents of the clerk's order, as well
8 as to furnish the respondent with a copy. The justice of the peace shall ascertain the desires of the
9 respondent with respect to the appointment of counsel, and this information must be immediately
10 communicated to the resident judge. The resident judge may appoint other counsel, may confer with
11 respondent's counsel and the county attorney in order to appoint a friend of respondent, and may do all
12 things necessary through the clerk of court by telephone as if the resident judge were personally present."

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